

Application Serial No: 10/511,588
Responsive to the Office Action mailed on: March 25, 2008

REMARKS

This Amendment is in response to the Office Action mailed on March 25, 2008. Claims 1, 4-6, 10, 13 and 17 are amended. Claims 1, 13 and 17 are amended to include features of claims 2 and 3. Claim 1, 13 and 17 are further amended editorially and are supported, for example, in Figure 5A. Claims 4-6 are amended to depend from claim 1. Claims 2 and 3 are cancelled without prejudice or disclaimer. No new matter is added. Claims 1 and 4-18 are pending.

§102 Rejections:

Claims 1, 17 and 18 are rejected as being anticipated by Simons (US Patent No. 6,036,925). As claim 1 is amended to include the features of claims 2 and 3, this rejection is now moot. Applicant does not concede the correctness of this rejection.

Claim 17 is directed to a set of an analytical tool cartridge and an analyzer, in which the analytical tool cartridge requires, among other features, a case including a storage space and a retrieval port, an opening/closing mechanism for opening and closing the retrieval port, and a retrieval mechanism. The retrieval mechanism and the opening/closing mechanism are integral with each other as a single operating body. The operating body comprises an engaging projection, a closing portion and an opening portion, the engaging projection being configured to integrally move the analytical tools when the operating body is moved in a specific direction from a standby state, the closing portion being configured to close up the retrieval port in the standby state, the opening portion being configured to open up the retrieval port when the operating body is moved in the specific direction from the standby state.

Simons does not disclose or suggest these features. Simons is directed to a cassette of lancet cartridges for sampling blood in which the cassette 150 has a container 151 and includes an upper chamber 152 filled with new test cartridges 100 and a lower chamber 154 for optional storage of spent cartridges 158. The cassette 150 also includes an exit port 156 through which new cartridges can be ejected and a sweeper to push the cartridge out of the exit port 156 (see column 8, line 66-column 9, line 41 of Simons). The exit port 156 always remains open and therefore Simons does not disclose or suggest an opening/closing mechanism. Accordingly, Simons also does not disclose or suggest a

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retrieval mechanism and an opening/closing mechanism that are integral with each other as a single operating body, as required by the analytical tool cartridge of claim 17. For at least these reasons claim 17 is not disclosed by Simons and should be allowed. Claim 18 depends from claim 17 and should be allowed for at least the same reasons.

Claims 1-7 and 9-12 are rejected as being anticipated by Friedlander (WO 94/10558). This rejection is traversed.

Claim 1 is directed to an analytical tool cartridge that requires, among other features, a case including a storage space and a retrieval port, an opening/closing mechanism for opening and closing the retrieval port, and a retrieval mechanism for retrieving analytical tools one at a time from the case via the retrieval port. The retrieval mechanism and the opening/closing mechanism are integral with each other as a single operating body. The operating body comprises an engaging projection, a closing portion and an opening portion, the engaging projection being configured to integrally move the analytical tools when the operating body is moved in a specific direction from a standby state, the closing portion being configured to close up the retrieval port in the standby state, the opening portion being configured to open up the retrieval port when the operating body is moved in the specific direction from the standby state.

Friedlander does not disclose or suggest these features. Friedlander is directed to an electrochemical sensor that includes an ejector that includes a magazine 23 that holds a stack of electrode elements 30 that are urged upward by a spring 26. Friedlander also discloses an O ring 29 carried by the magazine 23 for sealing the top most electrode element 28 and an ejector 31 that pushes the element 28 out when a manual actuator (not shown) withdraws the pressure from the spring 26 (see last paragraph of page 4 and the first paragraph of page 5 of Friedlander). Thus, the manual actuator that opens space between the magazine 23 and a plate 20, e.g. the opening/closing mechanism of Friedlander is not shown. Thus, Friedlander cannot disclose or suggest that the ejector 31 and the manual actuator (not shown) are integral with each other as a single operating body, as required of the retrieval mechanism and the opening/closing mechanism of claim 1. For at least these reasons claim 1 is not disclosed by Friedlander and should be

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allowed. Claims 2-7, and 9-12 depend from claim 1 and should be allowed for at least the same reasons.

Claims 1-7, 9 and 10 are rejected as being anticipated by Giraud (WO 02/055008). This rejection is traversed.

Giraud also does not disclose or suggest the features of claim 1. Giraud is directed to a meter strip dispenser assembly in which the dispenser 10 holds a vial that holds the test strips. The dispenser has one opening 26 for holding a removable vial of test strips on the top side 28 and an actuator 18 for moves a test strip out of the housing (see page 2, line 24-page 3, line 15 of Giraud). Thus, the opening 26 does not close and does not have an opening/closing mechanism as required by claim 1. Also, the vial is provided with a lip seal 119, e.g., an opening/closing mechanism, through which the test strips pass as they are dispensed from the vial. However, the actuator 18 is integral to the dispenser 10 and the lip seal 119 is integral to the vial. Thus, Giraud cannot disclose or suggest that the actuator 18 and the lip seal 119 are integral with each other as a single operating body, as required of the retrieval mechanism and the opening/closing mechanism of claim 1. For at least these reasons claim 1 is not disclosed by Giraud and should be allowed. Claims 2-7, 9 and 10 depend from claim 1 and should be allowed for at least the same reasons.

§103 Rejections:

Claim 8 is rejected as being unpatentable over Giraud. This rejection is traversed. Claim 8 depends from claim 1 and should be allowed for at least the same reasons discussed above. Applicant does not concede the correctness of this rejection.

Claims 11-13 are rejected as being unpatentable over Giraud in view of Essenpreis (EP 1147739). This rejection is traversed.

Claims 11 and 12 depend from claim 1 and should be allowed for at least the same reasons described above. Applicant does not concede the correctness of this rejection.

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Claim 13 is directed to a set of an analytical tool cartridge and an analyzer, in which the analytical tool cartridge requires, among other features, a case including a storage space and a retrieval port, an opening/closing mechanism for opening and closing the retrieval port, and a retrieval mechanism. The retrieval mechanism and the opening/closing mechanism are integral with each other as a single operating body. The operating body comprises an engaging projection, a closing portion and an opening portion, the engaging projection being configured to integrally move the analytical tools when the operating body is moved in a specific direction from a standby state, the closing portion being configured to close up the retrieval port in the standby state, the opening portion being configured to open up the retrieval port when the operating body is moved in the specific direction from the standby state.

The combination of Giraud and Essenpreis does not teach or suggest these features. As discussed above, with respect to claim 1, Giraud does not suggest an analytical tool cartridge having an opening/closing mechanism or a retrieval mechanism and an opening/closing mechanism that are integral with each other as a single operating body, as required by claim 13. Essenpreis does not overcome these deficiencies of Giraud. For at least these reasons claim 13 is not suggested by the combination of Giraud and Essenpreis and should be allowed.

Claims 14-16 are rejected as being unpatentable over Giraud in view of Essenpreis and further in view of Simons (US 6,036,924). This rejection is traversed. Claims 14-16 depend from claim 13 and should be allowed for at least the same reasons discussed above. Applicant does not concede the correctness of this rejection.

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AUG 25 2008

Conclusion:

Applicant respectfully asserts that claims 1 and 4-18 are in condition for allowance. If a telephone conference would be helpful in resolving any issues concerning this communication, please contact Applicants' primary attorney-of record, Douglas P. Mueller (Reg. No. 30,300), at (612) 455-3804.



Dated: August 25, 2008

Respectfully submitted,

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